

esseneinfo@aol.com  
07/14/2011 12:36 PM

To: Chad Schulze  
cc  
bcc  
Subject: Re: Huge News from Day Owen

Chad, in response to the recent news article, Jill Bloom sent me the below email. Please note that in it she refers to "threats" and hopes that our group (Pitchfork) disavows them. I am not aware of the threats she is referring to. Are you?

If so, please let me know about them. -- Day

-----Original Message-----

From: Chad Schulze <Schulze.Chad@epamail.epa.gov>  
To: esseneinfo <esseneinfo@aol.com>  
Sent: Thu, Jul 14, 2011 5:36 am  
Subject: Re: Huge News from Day Owen

Thanks Day,

Scott Downey, my manager, will be there along with three others from EPA ... a community involvement coordinator Kay Morrison, a toxicologist, Elizabeth Allen, and our Eugene placed based person, Allan Henning. I will not be able to make it though ...

I hope the meeting goes well and everyone walks away with a good understanding of the best next steps to look deeply into this issue.

Talk to you later...

\*\*\*\*\*

Chad C. Schulze  
Pesticides and Toxics Unit  
Office of Compliance and Enforcement  
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EPA DIVE TEAM:  
[www.epa.gov/region10/dive](http://www.epa.gov/region10/dive)

From: [esseneinfo@aol.com](mailto:esseneinfo@aol.com)  
To: Chad Schulze/R10/USEPA/US@EPA  
Date: 07/13/2011 10:43 PM  
Subject: Re: Huge News from Day Owen

Chad, this was front page of Monday's Reg. Grd newspaper:

-----Original Message-----

From: Schulze.Chad <[Schulze.Chad@epamail.epa.gov](mailto:Schulze.Chad@epamail.epa.gov)>  
To: ESSENEINFO <[ESSENEINFO@aol.com](mailto:ESSENEINFO@aol.com)>  
Cc: Downey.Scott <[Downey.Scott@epamail.epa.gov](mailto:Downey.Scott@epamail.epa.gov)>; spiralmom  
(b) (6); Bloom.Jill <[Bloom.Jill@epamail.epa.gov](mailto:Bloom.Jill@epamail.epa.gov)>;  
Kauffman.Richard <[Kauffman.Richard@epamail.epa.gov](mailto:Kauffman.Richard@epamail.epa.gov)>  
Sent: Thu, Apr 28, 2011 7:28 pm  
Subject: Re: Huge News from Day Owen

Good evening Day,

Thank you for letting us know about Dr. Barr's important study. We look forward to seeing the data whenever it's available.

Scott and I noticed in the message you sent Jill Bloom yesterday (below) that you believe recent pesticide applications caused several children to become ill at the Triangle Lake School, including your own daughter. We just want to stress to you and other members of your community to please contact ODA and PARC whenever you feel you or your family's health has been impacted by pesticides. I know you have been frustrated with ODA and PARC in the past but it is still important to have these incidents "officially" reported to the current agencies responsible for investigating these complaints in Oregon. As we have offered before, you can also contact us to report these incidents so we can ensure the information gets the appropriate individuals in ODA and PARC and monitor their efforts.

Also, please have anyone complaining of pesticide induced illness to seek medical attention immediately.

Thanks and don't hesitate to call me if you have questions.

\*\*\*\*\*

Officials to hear pesticide concerns  
Triangle Lake residents will meet with state and federal agencies

BY SUSAN PALMER

The Register-Guard

TRIANGLE LAKE — In what activists call a watershed event, state and federal officials will meet Thursday with Triangle Lake area residents concerned about herbicide exposure.

The meeting is a key step in an accelerated response to years of complaints that have now put the Triangle Lake area at the forefront of state policy on herbicide pollution.

The Oregon Health Authority has been crafting an investigation into allegations that herbicide drift from aerial spraying may be sickening residents in the Highway 36 corridor.

While some community members have been complaining about spray drift for years, it took recent test results showing the presence of two herbicides in residents' urine to prompt government agencies to take a closer look at the question of herbicide drift.

Private forestland owners often spray herbicides on clear-cuts to cut down the competition from weeds and brush that can slow the growth of young trees.

Anti-pesticide activists are calling the meeting a cornerstone event because it will involve both federal and state officials.

Organized by the state's Pesticide Analytical Response Center, the meeting will include representatives from the Oregon Department of Forestry, the Oregon Department of Agriculture, the Oregon Health Authority and the Oregon Department of Environmental Quality.

Two federal agencies, the Environmental Protection Agency and the Agency for Toxic Substances and Disease Registry will also attend.

"This is the first time that the voice of the people and their conviction that their health is being harmed by pesticides has been coupled with medical data and has actually been acknowledged by our elected officials," said Lisa Arkin, executive director of the Eugene-based conservation nonprofit group Oregon Toxics Alliance.

In April, area residents went to the Board of Forestry and presented

results of tests done on their urine by Dana Barr, a research professor at Georgia-based Emory University's Environmental and Occupational Health Department. Barr, a former researcher at the Centers for Disease Control and Prevention, is considered an expert in assessing human exposure to toxic compounds.

The range of state and federal officials attending the meeting points out the challenge that herbicide drift represents. While the federal EPA is responsible for regulating pesticide use nationwide, the Oregon Department of Forestry oversees applications of herbicides on private forests.

The state Department of Agriculture, meanwhile, has the regulatory responsibility for making sure the state complies with federal law, while the state Pesticide Analytical and Response Center, investigates and responds to complaints. PARC includes representatives from the Department of Environmental Quality and the Health Authority.

Herbicides are a type of pesticide.

"We feel this is an appropriate approach to responding to people's concerns," Department of Agriculture spokesman Bruce Pokarney said Monday. "Using PARC and the expertise of its members gives us a really good opportunity to find answers to the questions that people have."

At the Thursday meeting, community members will have the opportunity to ask questions and to learn more about how the investigation will be done.

The Highway 36 corridor is characterized by steep timbered slopes, much of it privately owned, with people living on farms and scattered homes lower down in the narrow stream-carved valleys.

The corridor runs through the Coast Range, from Mapleton at the western end, through communities such as Swisshome, Deadwood, Triangle Lake and Blachly, and on into Cheshire.

The meeting will give people the opportunity to be involved in the investigation, Pokarney said.

"We're looking for the cooperation of the community in the

investigation. At the meeting, they'll learn what opportunities there are to participate," he said.

#### Herbicide MEETING

State agencies will outline their response to complaints about herbicide drift

When: 6:30 p.m. to 9 p.m. Thursday

Where: Triangle Grange Hall, 20264 Blachly Grange Road

[Go Back](#)

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EPA DIVE TEAM:

[www.epa.gov/region10/dive](http://www.epa.gov/region10/dive)

From: Jill Bloom/DC/USEPA/US  
To: [ESSENEINFO@aol.com](mailto:ESSENEINFO@aol.com)  
Cc: (b) (6), Chad Schulze/R10/USEPA/US@EPA, Mary  
Manibusan/DC/USEPA/US@EPA, Richard Keigwin/DC/USEPA/US@EPA,  
Scott Downey/R10/USEPA/US@EPA, (b) (6)  
Date: 04/28/2011 05:38 AM  
Subject: Re: Huge News from Day Owen

Dear Mr. Owen,

We have been inquiring about sources of funding for related investigations but nothing promising is presenting itself. I am sure you are aware that EPA and much of the Federal gov't are facing budget cuts and our research dollars are limited or dedicated to other subjects already. I can't commit anything, but perhaps Dr. Barr could give you an estimate of what the work would cost if it were to be undertaken. The results so far sound interesting and we are very eager to have a look at them. I do appreciate your persistence on this issue.

Jill Bloom

From: [ESSENEINFO@aol.com](mailto:ESSENEINFO@aol.com)  
To: Jill Bloom/DC/USEPA/US@EPA  
Cc: (b) (6), Chad Schulze/R10/USEPA/US@EPA, Richard  
Keigwin/DC/USEPA/US@EPA, Scott Downey/R10/USEPA/US@EPA, Mary  
Manibusan/DC/USEPA/US@EPA, (b) (6)  
Date: 04/27/2011 04:02 PM  
Subject: Re: Huge News from Day Owen

Thanks, Jill. Dr Barr will be announcing her findings at an Oregon Board of Forestry meeting this Friday, April 29, by powerpoint presentation from Emory in Atlanta. Her powerpoint will be available to you within days.

Yesterday she told me the following: While nearly 100% of our 23 urine samples are positive for 2,4-D, nationally only 2 to 5% of the population test positive for 2,4-D.

Also, she said that not only did those of us who went in for second samples after Spring sprays occurred, had not just a spike in our Atrazine levels compared to our Winter levels, but that the spikes were: "surprisingly high".

I know that EPA will be considering the registration status of Atrazine in May. Perhaps this study should be considered pertinent not only to our petition but also to the Atrazine registration.

I will keep you posted.

Also: This type of testing only occurred because Dr Barr was willing to do the lab work pro bono. But on our end we had to pay several thousand dollars in costs to have the samples taken and mailed on dry ice. Would it be possible for EPA or CDC to pay for a follow up similar test that

would specifically test urine samples of 10 to 20 students at Triangle Lake School? Compared to big expensive studies, that few thousand dollars would be a drop in the bucket for you folks. I am sure that virtually 100% of the children would test positive, as the school is completely surrounded by a 55 acre clear cut and many other nearby clearcuts, not to mention that there homes are also near clearcuts. That test might loosen up the purse strings for the larger study.

As recently as one week ago a whole bunch of kids at the school got sore throats after an aerial spray up above Triangle Lake. One boy went to the emergency room at the hospital. Of course, school officials did not put two and two together and link it to the spraying!

A month before that spray, a ground spray of a particularly strong herbicide was applied sixty feet from open class room windows and my daughter got so sick she had to leave school.

Besides taking urine samples from 10 to 20 volunteer school kids, we would like the well that supplies the drinking fountains at the school tested. I am certain it will test positive for a variety of herbicides.

Can the EPA do this for us as part of its investigation into the merits of our petition? Thanks, Day Owen

NOTE: (b) (6)



In a message dated 4/27/2011 8:20:12 A.M. Pacific Daylight Time, [Bloom.Jill@epamail.epa.gov](mailto:Bloom.Jill@epamail.epa.gov) writes:

Dear Mr. Owens,

Thanks for your note. This is interesting information. Any idea when Dr. Barr's data will be available? The team would definitely like to take a look. Your petition is still under consideration here, but there has been little movement these last several months. It has not slipped off our radar and we do plan to pursue it further.

Jill Bloom

From: [ESSENEINFO@aol.com](mailto:ESSENEINFO@aol.com)

To: Jill Bloom/DC/USEPA/US@EPA, Chad Schulze/R10/USEPA/US@EPA, Scott Downey/R10/USEPA/US@EPA, Richard Keigwin/DC/USEPA/US@EPA

Cc: (b) (6)

Date: 04/26/2011 02:28 AM

Subject: Huge News from Day Owen

Jill, Chad, and Scott:

There has been a huge development that relates directly to our petition to the EPA asking for a study to be done on an aerial spray buffer zone.

Dr Dana Barr who for two decades was in charge of the labs at CDC -- she

is now at Emory next door to CDC -- agreed during the late Winter to conduct PRO BONO the following test of residents along Highway 36 in Oregon: About twenty of us provided initial urine samples that were frozen and mailed by an Oregon medical lab directly to Dr Barr. Then, each time any of us had an aerial spray within one mile of our home we did a second sample. She just sent me the results today and I will be tomorrow discussing them in more detail with her. THE RESULTS ARE THAT, IN HER WORDS, NEARLY ALL OF OUR SAMPLES TESTED POSITIVE FOR 2-4D and Atrazine. AND THOSE WHO SENT SECOND SAMPLES AFTER SPRAYS NEAR HOME HAD THE AMOUNT PRESENT IN THE SECOND SAMPLES GO UP. She will be providing the details to Captain Kauffman who I asked to forward them to Chad.

Some of the positive samples are from small children.

While I am of course not pleased to have pesticide in my urine, I am at least pleased to have irrefutable evidence coming from such a prestigious scientist as Dr Dana Barr.

It is my hope that this will give you all the extra incentive to respond

positively to our petition. Since Jill had months ago told me that I would eventually receive word on the disposition of our petition and have not yet received that word, I believe the petition is still "in play". If so, this new development should, I hope, cause you to take action, especially in regard to the proposed aerial spray study of our region. I do feel vindicated and hope you will help!

In a message dated 1/3/2011 9:15:27 A.M. Pacific Daylight Time, [Bloom.Jill@epamail.epa.gov](mailto:Bloom.Jill@epamail.epa.gov) writes:

Hello, Mr. Owen,

Thanks for sending on the article. I don't think Jackie Guerry needs to see it because she is no longer involved in the project. I have returned to my old position in November and resumed work on the project. The work group briefed our Office Director in December about our recommendations and are busy working up the additional analyses he requested. In the meantime, we have been talking to the Region about local approaches.

I hope 2011 brings you and your family a happy new year.

Jill Bloom, Review Manager  
US Environmental Protection Agency  
Office of Pesticide Programs  
Pesticide Re-evaluation Division (7508P)  
Risk Management and Implementation Branch 2  
703-308-8019  
fax: 703-308-7070

-----[ESSENEINFO@aol.com](mailto:ESSENEINFO@aol.com) wrote: -----

To: Jill Bloom/DC/USEPA/US@EPA  
From: [ESSENEINFO@aol.com](mailto:ESSENEINFO@aol.com)  
Date: 01/03/2011 04:22AM  
Subject: Re: Final Public Comment on Petition

Hi Jill!

Here is the Sunday front page article on spray drift issue in Eugene Register Guard newspaper. It focusses on Kohlman grape vineyard that has twice been devastated by herbicide drift. Midway into article it mentions our petition and also mentions the recent review of PARC by



Captain Kauffman. Here it is (can you pass it on to Jacqueline (forgive spelling). P.S. It's "Oakland" Oregon not Oakland California in title of article!

<http://www.registerguard.com/csp/cms/sites/web/news/cityregion/25051060-41/kohlman-drift-oregon-herbicide-herbicides.csp>

Dying on the vine  
An Oakland wine grape grower wages a costly fight against damaging pesticide drift

By Susan Palmer

The Register-Guard

Published: Sunday, Jan 2, 2011 05:00AM

OAKLAND — The 2010 grape harvest on Legacy Vineyards could have been worse. Considering the wet spring, cool summer and late harvest marred by the arrival of hundreds of hungry migrating birds, the 6 tons of tempranillo grapes and 3 tons of pinot noir were a respectable take.

But the best news for wine growers Kevin and Karen Kohlman was this: Their vines did not get hit this season by pesticides drifting onto their property from surrounding private industrial forestlands. That's a change.

The California couple moved to Oregon in 1999 with dreams of creating a new vineyard. Under their plan, 2010 should have yielded 26 tons of grapes. Instead, year after year they've watched vines wither and die, killed by herbicide drift so severe it has sterilized the soil in places. They've put off launching their own label while they rebuild from the financial damage.

"Every spring and fall I don't worry about the frost," Kohlman said. "I worry about the herbicide spray."

The battle over pesticide drift — how harmful it is and what should be done about it — is old. But in the last year it's gained new attention in Oregon and nationally.

The U.S. Environmental Protection Agency has proposed revisions to restrict herbicide use in order to limit drift. The proposed language

for herbicide labels has met with outrage from the chemicals' manufacturers and those who rely on the products to kill weeds and insects.

The pesticide industry, even as it fights the curbs, acknowledges that drift — the unintentional movement of chemicals from the place they're intended — is so challenging a problem that it can't be eliminated.

Perhaps nowhere are the issues as complex as in Oregon, where a rapidly growing number of vineyards share boundaries with farms and private forestlands where herbicide use has been commonplace for decades, often on rugged terrain that makes following product rules difficult.

Oregon — some observers and activists say — also suffers from lax oversight with muddy procedures for investigating complaints, creating a system that favors herbicide users and offers few remedies to those who say they've been harmed.

For the Kohlman family, herbicide drift sparked a years-long legal nightmare that highlights how hard it is to determine where toxic drift may come from, given how widely such chemicals are used in Oregon's rural areas.

#### Shriveled vines

The Kholmans knew almost nothing about herbicide drift when they bought their property, said Kevin Kohlman, who had worked in sales in industrial water treatment systems. Instead, he and his wife focused on the possibilities for their fledgling vineyard.

The Kholmans had done extensive research and were looking for the right soil, altitude and exposure to the sun that would match the growing conditions for tempranillo, the grapes that yield a robust red wine popular in Spain. A decade ago, tempranillo was a twinkle in the eyes of western U.S. grape growers, and the mild climates of the Umpqua and Rogue valleys have lured growers interested in getting in on a potential new trend.

Kohlman thought the 100-acre spread just east of Tyee Mountain near Oakland had everything going for it. Besides the breathtaking views, his little plateau sits at about 1,100 feet with gentle slopes facing the morning sun. The altitude kept him up off the valley floor with less fog, a boon for the sun-loving fruit. He planted his vines — 10 acres of tempranillo and 3 acres of pinot noir — and in 2002, when his bud break occurred at roughly the same time as similar regions in France and Spain, he thought his gamble was bearing fruit.

But by 2004, the year he expected his first real harvest, his vines began to wither. By September he had row after row of shriveled grape clusters on skeletal plants that were dying. It would take another year, after Kohlman had replanted with new vines that also began to

fail, for him to understand what he faced.

When thousands more grapevines died in 2005, Kohlman called Steve Renquist, the OSU Extension Service horticultural agent in Douglas County, who had come out the previous year to take samples of Kohlman's dead plants. Renquist suspected herbicides were killing the vines, and tests confirmed that.

The mystery: Kohlman wasn't using the herbicides identified in tests.

Grapes are notoriously sensitive to chemicals that kill broad-leaf weeds. The compound 2,4-D — one of the most widely applied herbicides in the world — is so damaging to grape vines that wine-focused California severely restricts its use.

Grapes are particularly susceptible during the early bloom period from April through July, and Renquist, who works closely with orchard and vineyard owners in the Umpqua valley, sees damage all the time. In the 10 years he's worked in Douglas County, every grape grower he's interacted with has experienced unwanted herbicide drift, he said.

"Twenty-five to 30 percent have had a fairly significant incident," he said. "But not everyone gets hammered the way Kevin's vineyard got hammered."

Surrounded by forests

Kohlman said he didn't have to look far for the source. Roseburg Forest Products, which has 800,000 acres of forest in Oregon and Northern California, owns significant swaths of forest near the Kohlman vineyard. The beautiful treed slopes that provide such a magnificent backdrop also provide a steady income, and herbicides are key in commercial timber operations.

They're most frequently used after a clear-cut to knock down brush that competes with sun-loving Douglas fir seedlings. On steep slopes like the ones above the Kohlman vineyard, herbicides are most often applied by helicopter.

Roseburg owner Allyn Ford declined to be interviewed for this story. But Terry Witt, executive director of the pro-pesticide group Oregonians for Food and Shelter, said timberland owners need herbicides to get seedlings to the "free to grow" condition required by the Oregon Forestry Department.

"Free to grow" describes a tree that is taller than and out-competing weeds and shrubs in a 10-foot radius.

A couple of herbicide applications to a clear-cut before planting lets seedlings grow above the competition, Witt said.

Kohlman contacted Roseburg about the damage he was seeing in his vineyard and company representatives promised to investigate.

Roseburg and Kohlman eventually came to a financial settlement over damage to the vineyard from herbicide sprays in 2004, but the company disagreed that its sprays in 2005 had drifted onto Kohlman's land.

The dispute turned nasty: Kohlman sued in Douglas County Circuit Court, beginning an unusual four-year legal fight, pitting the grape-growing entrepreneur against one of Oregon's mainstay timber families.

In November 2009, a judge — brought in from Jackson County, because four Douglas County judges recused themselves — ruled that aerial spraying of herbicides is an ultra-hazardous activity, and that the state's pesticide loss reporting regulations violate the Oregon Constitution. The judge left one decision for the jury: whether Roseburg was the source of the spray that damaged Kohlman's vineyard.

According to court documents, Roseburg sprayed several herbicides on clear-cuts near the Kohlman vineyard in 2005. The application was done in April on land that ranged from one to four miles away.

After reviewing the evidence, the jury sided with Roseburg, concluding that there was insufficient proof to link the helicopter spraying on Roseburg land with the damage to the grapevines.

That verdict makes sense to Witt. The pesticides used on forests are common and are applied along highways and roads and even by homeowners, so tracking them to a source is difficult, he said.

"They are readily available to lots of people," he said.

Complex terrain

But spraying veteran Stuart Turner, who appeared as an expert witness for the Kohlmans, was alarmed by the jury's decision.

Surrounded as it is by timberland, the Kohlman vineyard is a spray drift incident waiting to happen, Turner said.

At first blush, Turner is an unlikely advocate for the wine grower. A consulting agronomist based in West Richmond, Wash., Turner has worked extensively with farmers and foresters who use herbicides, often serving as an expert witness and testifying on their behalf in similar

cases. He sees pesticides as an important tool. For 13 years, he headed the Helicopter Association International's committee on aerial applications.

"I work with these guys," Turner said of the pilots who apply the chemicals. "They're good guys. They're hard workers and they're excellent pilots."

But spraying herbicides on Oregon's steep slopes asks pilots to do the almost-impossible, Turner said. They must follow label directions that recommend flying low to the ground in low-wind and no-moisture conditions. That's a tall order in the Coast Range.

The application instructions for the weedkiller Oust, for example, warn that applying the herbicide more than 10 feet above the target increases the potential for drift and that wind speeds of less than 3 mph or more than 10 mph can cause herbicide drift. Wind speeds slower than 3 mph can result in wind moving in variable directions or can be an indication of temperature inversions, which can also result in drift.

The Kohlman vineyard sits at the bottom of a funnel of very steep slopes. With some leaf trees remaining in the clear-cuts, pilots must fly as much as 90 feet off the ground, Turner said. The sprays occur in the morning when cooler denser air is flowing down the mountain, and conditions at the ridge top are often different from those at the bottom, he said.

"It's a four-dimensional issue. You're making applications in what anybody would consider the most challenging terrain: steep slopes, high rainfall and fog, which acts to entrap (herbicide droplets) carrying them a much further distance," he said.

Research in eastern Washington state tracked pesticide drift moving as much as 22 miles from its intended location, Turner said.

#### Rules based on flat-land tests

Those who apply herbicides must follow label directions, but the directions were written based on trials in the 1990s designed by a task force made up largely of pesticide manufacturers using fixed wing aircraft and flying over flat lands in Texas, Turner said.

"Air has to flow over and around land masses. When it hits this Coastal Range, it'll do curlicues," he said.

The labels lack specific instructions for steep slopes, he said. They put the burden on pilots to adapt to local conditions.

At the Kohlman trial, Roseburg Foreset Products presented photographs that showed helicopters spraying a Roseburg clear-cut. The photos were taken by the Oregon Department of Agriculture in 2009. The agency, which had investigated Kohlman's complaints in 2005, wanted to observe herbicide applications being done on Roseburg land to make sure label directions were being followed, said Dale Mitchell, assistant administrator for the ODA pesticides division.

The agency oversees pesticide use in Oregon for the federal government. While its initial investigation did find herbicide drift at the Kohlman vineyard, the agency was not able to determine the source, Mitchell said.

Based on their observations in 2009, they saw nothing that they thought was inconsistent with the herbicide label instructions, Mitchell said.

But Turner disagrees.

The pictures clearly show helicopters flying 90 to 100 feet off the ground and some images show snow on the ground, suggesting that the ground was frozen, a violation of label guidelines, he said.

"I was astonished to see these slides appear in this context from this source," he said.

After the January 2010 verdict, the Kohlmans called for a mistrial, accusing the defense of illegally withholding herbicide sample data taken during the investigation.

The lab Roseburg Forest Products hired to analyze the samples of plant tissue and soil taken from both the clear-cut and the vineyard wrote in a summary report that the chemicals found in the vineyard were not detected in the clear-cut.

After the trial, the Kohlmans obtained the raw data those reports were based on and had them reviewed by two other chemists. According to documents filed in the appeal motion, the chemists the Kohlmans hired concluded that the same products — Oust, Velpar, 2,4-D and Garlon — were present in both the vineyard and the clear-cut in 2005.

The judge rejected the motion for the mistrial, ruling that the Kohlmans could have asked for the raw data sooner and that the defense had not illegally withheld it.

Complaints by others

Judge Harris made two decisions in the Kohlmans' favor. He concluded

that aerial spraying of two of the most potent chemicals used by Roseburg was an ultra-hazardous activity. That finding could have made it easier for the Kohlmans to win damages from Roseburg if the company was found to be the source of the spray. The judge also found that the state's narrow window for filing notice of a report of loss from pesticide drift violates the Oregon Constitution.

The Kohlmans appealed the judge's mistrial decision, but at a pre-appeal mediation hearing in December, the lawsuit was terminated. Neither side will discuss how it was resolved or whether a settlement was reached.

Kevin Kohlman said he spent \$500,000 on the case.

The Kohlmans aren't the first people in timber rich Lane and Douglas counties to complain about herbicide drift from aerial sprays. The residents along Highway 36 in the Triangle Lake area have been raising objections about spray drift for years, complaining of being sickened by sprays on clear-cuts as much as a mile away from their homes.

Day Owen, a Triangle Lake area resident who formed the group Pitchfork Rebellion, has lobbied the Oregon Board of Forestry, the Oregon Department of Agriculture and the EPA.

Residents in the Fox Hollow area of south Eugene who call themselves the Forestland Dwellers, often work directly with forest landowners and have successfully talked some foresters into spraying herbicides from the ground rather than by air.

But none has ever sued a timber company or farmer over spray drift. State law protects forest landowners and farmers from "nuisance lawsuits" by residents alleging trespass or harm from pesticide drift.

A visit from the EPA

Most recently, Owen and his neighbors have taken their complaints straight to the EPA, filing a petition last spring asking the agency to investigate herbicide drift in the Coast Range and to mandate no-spray buffers around homes and schools.

In June, EPA representatives visited Owen and his neighbors and also spent time with Kevin Kohlman, taking pictures of the terrain, listening to their concerns and compiling a report to help educate EPA top officials.

The EPA asked another federal agency to take a look. The Agency For Toxic Substances and Disease Registry recently reviewed the ODA's investigations into complaints of drift by Owen and his neighbors in the Triangle Lake area.

Owen had complained that state investigators failed to take samples that could have shown whether drift had occurred.

Richard Kauffman, the disease registry's regional representative, found the ODA's investigations lacking and presented his findings at a Nov. 17 meeting of the ODA's Pesticide Analytical Response Center board, telling them that their investigations lacked sufficient environmental or exposure data to make any reliable conclusions.

He also said that herbicide drift in the Coast Range is plausible given the topography, the proximity of homes, and the properties of the chemicals used.

He called for a study of drift in the area, but who would do it or pay for it is unclear.

"There shouldn't be aerial spray," said Lisa Arkin, executive director of the Oregon Toxics Alliance, a Eugene nonprofit environmental group. "You're poisoning everything to get a monocrop," she said.

Oregon's steep slopes are all the starting points of small streams that feed the state's rivers. State rules allow spraying over nonfish-bearing streams, but the products seep into rivers that often are drinking water sources for communities, Arkin said.

Kohlman said that while he supports the right of forest owners to manage their lands, he's frustrated that the state lacks a way to protect him from drifting herbicides.

His vines escaped damage in 2010, Kohlman said, but the threat remains. He pays the Oregon Department of Forestry to see a list of property owners in his area who file notice with the state that they plan to spray, so he can talk to them in advance. In 2010, he received 12 such spray notices. He's bracing now for the 2011 season.

He'd like to see herbicide label changes that specifically forbid aerial spraying under certain conditions.

"If there's a high potential for drift why can't you tell (applicators) not to spray? Why can't they be proactive in preventing drift?" Kohlman said.

Only the EPA could make that change. It has proposed additional label language warning applicators to avoid drift, but there is no schedule for making the change, agency officials said.



Changes that limit pesticide use have broader land-use impacts that need to be considered, said Witt, the forest-industry advocate. Forest land and farmland owners need herbicides to maximize productivity of their lands, Witt said.

For Kohlman, the equation is simple. Prohibit the practices that can harm nearby property.

"It isn't just the fact that farming is a risky business," he said.  
"I'm fighting Mother Nature hard enough. I really don't want to fight an industry. I really don't want to fight the Department of Agriculture and the Department of Forestry."

"I'm fighting Mother Nature hard enough. I really don't want to fight an industry."

— Kevin Kohlman, legacy vineyards

#### pesticides in Oregon

No one knows how many pounds of herbicides and other pesticides are used in Oregon each year. The state has intermittently required some users to report how much they use, but stopped comprehensive tracking in 2008 because of a lack of funding. Pesticide users over the years resisted environmentalists' calls for the reporting, saying it's expensive and time consuming.

Users reported applying 19.6 million pounds in 2007. Just over half was herbicides. Seventy-seven percent of total pesticide use was on farms, 4 percent on forests, and 3.5 percent on roadsides.

The four herbicides found in the Kohlman vineyard were among the top 100 pesticides used in Oregon that year:

7th: 2,4D, 778,878 pounds statewide

25th: Triclopyr (Garlon), 125,542 pounds

31st: Hexazinone (Velpar), 105,284 pounds

83rd: Sulfometuron methyl (Oust), 16,866 pounds

In a message dated 9/28/2010 4:17:34 A.M. Pacific Standard Time,  
[Bloom.Jill@epamail.epa.gov](mailto:Bloom.Jill@epamail.epa.gov) writes:  
Mr. Owen,

I'll speak with the docket manager. She may not be able to remove  
the  
old document, but she should be able to post the corrected one.  
Barring  
that, I will post a note myself to the docket about the correct  
wording.

Jill Bloom, Acting Team Leader  
US Environmental Protection Agency  
Office of Pesticide Programs  
Pesticide Re-evaluation Division (7508P)  
Risk Management and Implementation Branch 3  
703-308-8019  
fax: 703-308-7070

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| From: |  
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| [ESSENEINFO@aol.com](mailto:ESSENEINFO@aol.com)  
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| To: |  
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| Jill Bloom/DC/USEPA/US@EPA  
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| Date: |  
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|09/27/2010 05:23 PM  
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|Re: Final Public Comment on Petition  
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Hi Jill.

In the message from you below, you acknowledged receiving a corrected version of our "Addendum Three: Last Public Comment" document in which

I summarized the evidence submitted this far and stated that you would make sure that the corrected version is the one that gets posted. In the non-corrected version, I had referred to aerial drift that had damaged a blueberry crop of an organic farmer; in the corrected version

I changed the reference to blueberries to grapes, which is accurate.

I just noticed that the version that recently was posted on [www.gov](http://www.gov) is the

WRONG version, the one that refers to blueberries rather than grapes.

The only reason I care is that industry may attack me for having the wrong info. So, please have your docket manager replace the current

addendum three public comment with the corrected version, which, for your convenience, I am attaching to this email.

Thanks, and please let me know as soon as you have any kind of update for me in regard to the petition. Thanks, Day

In a message dated 8/31/2010 8:46:14 A.M. Pacific Daylight Time, [Bloom.Jill@epamail.epa.gov](mailto:Bloom.Jill@epamail.epa.gov) writes:  
Dear Mr. Owen,

I received the corrected version and have requested that it be posted to the docket.

As I wrote earlier, we meet with Chad next week. I also have responded to your inquiry about the new team leader (not a new scientist, per se).

Re: The new phase:

The team is now charged with evaluating the petition and comments and making recommendations to our management on what action we should take in response to the concerns detailed in the petition. After management advises the team on a plan of action, there will be a response posted to the docket. I am not sure if it will be (formally) offered for public comment (another decision for management), but I expect that you and your colleagues may wish to write us with reactions to our plan. As I have indicated in the past, it is likely that the Pitchfork petition will be addressed together with the EarthJustice/Farmworker Justice petition on protecting children from pesticide drift (docket id OPP-2009-0825).

Hope that helps somewhat.

Jill Bloom, Acting Team Leader  
US Environmental Protection Agency  
Office of Pesticide Programs  
Pesticide Re-evaluation Division (7508P)  
Risk Management and Implementation Branch 3  
703-308-8019  
fax: 703-308-7070

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| From: |  
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| [ESSENEINFO@aol.com](mailto:ESSENEINFO@aol.com)

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| To: |  
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| Jill Bloom/DC/USEPA/US@EPA

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| Cc: |  
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| Chad Schulze/R10/USEPA/US@EPA, Scott Downey/R10/USEPA/US@EPA,  
| Jacqueline Guerry/DC/USEPA/US@EPA

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| Date: |  
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|08/19/2010 05:02 PM

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|Re: Final Public Comment on Petition

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Hi Jill, can you please confirm whether or not you received the corrected version of Addendum Three (our last comment of public comment

period) and whether or not that version can replace the previous version. Reminder: the only difference is that in the corrected version

I changed the references to a "blueberry farm" in Roseburg to "grape vineyard".

Also, I previously asked you two questions that did not get answered:

1) Have you yet viewed Chad's power point presentation?

2) Can you describe for me the situation that Chad referenced in regard

to your having to "bring a new scientist up to speed" on this docket?

Did we lose some other scientists who had been a part of the entire process or what?

ONE NEW QUESTION: In a previous email a few weeks ago, you mentioned

that, when the comment period ended on August 12, we would enter a new phase focused on trying to solve the problem(s) identified by our petition, teleconferences, meetings, and comment period. CAN YOU PLEASE DESCRIBE FOR ME EXACTLY WHAT THAT NEW PHASE IS AND WHAT EXACTLY WILL BE OCCURRING ON YOUR END AND WHAT ROLE, IF ANY, WE, THE PETITIONERS, HAVE IN THIS NEXT PHASE?  
-- Thanks, Day Owen

In a message dated 8/12/2010 4:52:00 A.M. Pacific Daylight Time, [Bloom.Jill@epamail.epa.gov](mailto:Bloom.Jill@epamail.epa.gov) writes:  
Mr. Owen,

Will do. We are fairly lenient on the submission of comments that come in late, but you are covered nevertheless.

Jill

Jill Bloom, Acting Team Leader  
US Environmental Protection Agency  
Office of Pesticide Programs  
Pesticide Re-evaluation Division (7508P)  
Risk Management and Implementation Branch 3  
703-308-8019  
fax: 703-308-7070

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| From: |  
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| [ESSENEINFO@aol.com](mailto:ESSENEINFO@aol.com)  
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